

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 597

## 90TH GENERAL ASSEMBLY

Reported from the Committee on Public Health and Welfare, February 17, 2000, with recommendation that the Senate Committee Substitute do pass.

2916S.10C

TERRY L. SPIELER, Secretary.

### AN ACT

To repeal section 453.030, RSMo Supp. 1999, relating to adoption, and to enact in lieu thereof two new sections relating to the same subject.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 453.030, RSMo Supp. 1999, is repealed and two new sections enacted in lieu thereof, to be known as sections 191.975 and 453.030, to read as follows:

**191.975. 1. This section shall be known and may be cited as the "Adoption Awareness Law".**

**2. In order to raise public awareness and educate the public, the division of maternal, child and family health in the department of health, in conjunction with the department of social services and with the office of women's health in the department of health, shall be responsible for:**

**(1) Collecting resource materials in order to educate communities about foster care and adoption; and**

**(2) Establishing and promoting education materials which may include a video, brochures or public relations campaigns about adoption and foster care for public use and for use as a part of the department of health's family planning and education programs. The material shall include, but not be limited to, information about:**

**(a) The benefits of adoption and foster care;**

**(b) Adoption and foster care procedures;**

**(c) Methods of payment;**

**(d) Methods of controlling the adoption of a child, including the choice of**

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

**adoptive parents;**

**(e) Protection for and rights, or lack thereof, of the birth parents prior to and following the adoption;**

**(f) Location of adoption and foster care agencies; and**

**(g) Discussion of various state health programs for women and children, including medical assistance programs, as well as income assistance programs;**

**(3) Such materials shall be made available through department of health clinics and family planning programs, and privately-funded adoption agencies, and abortion facilities, as defined in section 188.015, RSMo, and private physicians for distribution to their patients who request such material. Such materials may be made available to the public through the department of health's Internet website;**

**3. The duties prescribed in this section shall be subject to appropriations by the general assembly.**

**4. The division shall promulgate rules and regulations for the implementation of this section in accordance with chapter 536, RSMo.**

453.030. 1. In all cases the approval of the court of the adoption shall be required and such approval shall be given or withheld as the welfare of the person sought to be adopted may, in the opinion of the court, demand.

2. The written consent of the person to be adopted shall be required in all cases where the person sought to be adopted is fourteen years of age or older, except where the court finds that such child has not sufficient mental capacity to give the same.

3. With the exceptions specifically enumerated in section 453.040, when the person sought to be adopted is under the age of eighteen years, the written consent of the following persons shall be required and filed in and made a part of the files and record of the proceeding:

**(1) The mother of the child; and**

**(2) Any man who:**

**(a) Is presumed to be the father pursuant to the subdivisions (1), (2), (3) or (5) of subsection 1 of section 210.822, RSMo; or**

**(b) Has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child; or**

**(c) Filed with the putative father registry pursuant to section 192.016, RSMo, a notice of intent to claim paternity or an acknowledgment of paternity either prior to or within fifteen days after the child's birth, and has filed an action to establish his paternity in a court of competent jurisdiction no later than fifteen days after the birth of the child. The written consent of a man who has declared himself or has been identified by the mother as the acknowledged father may be given at any time before the child's birth and shall be executed in the presence of a representative of a licensed child-placing agency and acknowledged before a notary public. Such consent may be revoked within forty-eight hours of the**

**child's birth if such person notifies the licensed child-placing agency obtaining consent or the person placing the child for adoption in writing; or**

(3) The child's current adoptive parents or other legally recognized mother and father. Upon request by the petitioner and within one business day of such request, the clerk of the local court shall verify whether such written consents have been filed with the court.

4. The written consent required in subdivisions (2) and (3) of subsection 3 of this section may be [executed] **signed** before or after the commencement of the adoption proceedings, [and shall be acknowledged before a notary public] **and may be executed in front of a judge or a representative of a licensed child-placing agency and acknowledged before a notary public.** In lieu of such **signed** acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons whose signatures and addresses shall be plainly written thereon. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

5. The written consent required in [subdivision (1)] **subdivisions (1) and (2)** of subsection 3 of this section by the birth parent [shall not] **or birth parents may** be executed anytime **after the birth of the child and shall be revocable at any time** before the child is forty-eight hours old. Such written consent shall be executed in front of a judge or a **representative of a licensed child-placing agency and acknowledged before a notary public.** In lieu of such acknowledgment, the signature of the person giving such written consent shall be witnessed by the signatures of at least two adult persons who are present at the execution whose signatures and addresses shall be plainly written thereon and who determine and certify that the consent is knowingly and freely given. The two adult witnesses shall not be the prospective adoptive parents or any attorney representing a party to the adoption proceeding. The notary public or witnesses shall verify the identity of the party signing the consent.

6. [The written consents shall be reviewed and, if found to be in compliance with this section, approved by the court] **After the forty-eight hour revocation period, the child may be placed in the pre-approved adoptive home and the court may proceed with approval of the consents** within three business days of such consents being presented to the court. Upon review, in lieu of approving the consent within three business days, the court may set a date for a prompt evidentiary hearing upon notice to the parties. Failure to review and approve the written consent within three business days shall not void the consent, but a party may seek a writ of mandamus from the appropriate court, unless an evidentiary hearing has been set by the court pursuant to this subsection.

7. The written consent required in subsection 3 of this section may be withdrawn anytime until it has been reviewed and accepted by a judge. **In cases where the birth mother or the birth father or the putative father consent to the adoption in the presence of a licensed**

**child-placing agency representative after the child is forty-eight hours old, the consent may not be withdrawn unless by judicial order.**

8. A consent form shall be developed through rules and regulations promulgated by the department of social services. No rule or portion of a rule promulgated under the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo. If a written consent is obtained after August 28, 1997, but prior to the development of a consent form by the department and the written consent complies with the provisions of subsection 9 of this section, such written consent shall be deemed valid.

9. However, the consent form must specify that:

(1) The birth parent understands the importance of identifying all possible fathers of the child and shall provide the names of all such persons unless the mother has good cause as to why she should not name such persons. The court shall determine if good cause is justifiable. By signing the consent, the birth parent acknowledges that those having an interest in the child have been supplied with all available information to assist in locating all possible fathers; [and]

(2) The birth parent understands that if he denies paternity, but consents to the adoption, he waives any future interest in the child;

**(3) In cases where the father or the putative father consents to the adoption before the child's birth, the consent form shall state that the father or putative father may revoke his consent within forty-eight hours of the child's birth if such person notifies the licensed child-placing agency obtaining consent or the person placing the child for adoption in writing; and**

**(4) In cases where the birth mother or the birth father or the putative father consent to the adoption in the presence of the licensed child-placing agency representative after the child is forty-eight hours old, the consent form shall state that such consent is irrevocable upon execution.**

10. The written consent to adoption required by subsection 3 and executed through procedures set forth in subsection 5 of this section shall be valid and effective even though the parent consenting was under eighteen years of age, if such parent was represented by a guardian ad litem, at the time of the execution thereof.

11. Where the person sought to be adopted is eighteen years of age or older, his written consent alone to his adoption shall be sufficient.

12. A birth parent, including a birth parent less than eighteen years of age, shall have the right to legal representation and payment of any reasonable legal fees incurred throughout the adoption process. In addition, the court may appoint an attorney to represent a birth parent if:

(1) A birth parent requests representation;

(2) The court finds that hiring an attorney to represent such birth parent would cause a financial hardship for the birth parent; and

(3) The birth parent is not already represented by counsel.

13. Except in cases where the court determines that the adoptive parents are unable to pay reasonable attorney fees and appoints pro bono counsel for the birth parents, the court shall order the costs of the attorney fees incurred pursuant to subsection 12 of this section to be paid by the prospective adoptive parents or the child-placing agency.

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